

AMENDED IN ASSEMBLY MARCH 31, 2004

AMENDED IN ASSEMBLY JUNE 16, 2003

AMENDED IN SENATE MARCH 17, 2003

SENATE BILL

No. 37

Introduced by Senator Dunn

December 19, 2002

~~An act to add Section 18700.1 to the Health and Safety Code, relating to manufactured housing. An act to add Section 354.9 to the Code of Civil Procedure, relating to civil actions.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 37, as amended, Dunn. ~~Manufactured mobilehomes~~ *Victims of wrongful or coerced repatriation.*

Existing law authorizes various persons to bring civil actions for damages under specified circumstances.

This bill would authorize a victim of unconstitutional, wrongful, or coerced repatriation, defined as any United States citizen or legal resident of Mexican descent who was coerced, forced, or falsely induced to emigrate from California during the period from 1929 to 1944, inclusive, or the victim's heir or beneficiary, to bring a legal action to recover damages in any court of competent jurisdiction in this state. This provision would apply if the victim was coerced, forced, or falsely induced to emigrate by any city, county, or state governmental authority, or anyone acting under color of that authority, including, but not limited to, any private individual or business entity. The provision would also apply only if that person has a claim arising out of that unconstitutional, wrongful, or coerced repatriation, as specified. The bill would also provide that any action brought pursuant to this

provision may not be dismissed for failure to comply with the applicable statute of limitations or to exhaust any applicable administrative remedies or governmental tort claims procedures, if the action is commenced on or before December 31, 2006.

This bill would specify that its provisions are severable.

~~The Mobilehome Parks Act requires an enforcement agency that, upon inspection, determines that a mobilehome park is in violation of any provision of the act, or any rule or regulation adopted pursuant to the act, to issue a notice to correct the violation to the owner or operator of the mobilehome park within 10 days after completion of the inspection and determination that a violation exists. The Department of Housing and Community Development is required to prescribe procedures for an informal conference and for any subsequent hearings or appeals to dispute a determination by the enforcement agency regarding the alleged violation, the alleged failure to correct the violation in the required timeframe, or the reasonableness of the deadline for correction specified by the notice of violation.~~

~~Existing law makes it a misdemeanor for a person to willfully violate the act, the published building standards relating thereto, or any other rules or regulations adopted by the department pursuant to the act. It also subjects the holder of a permit to operate a park who willfully violates these provisions to suspension or revocation of the permit and subjects any person who willfully violates these provisions to liability for civil penalties.~~

~~This bill would authorize, in addition to the above-described penalties, the Director of Housing and Community Development, a designee, or an employee authorized by a local enforcement agency that has assumed jurisdiction over enforcement of the act to issue a citation that assesses a prescribed civil penalty to certain persons for the violation of specified provisions of the act that have continued for at least 14 days after issuance of a notice to correct.~~

Vote: majority. Appropriation: no. Fiscal committee: *yes no*. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 18700.1 is added to the Health and~~
- 2 ~~SECTION 1. Section 354.9 is added to the Code of Civil~~
- 3 ~~Procedure, to read:~~



1 354.9. (a) *The following definitions govern the construction*
2 *of this section:*

3 (1) *“Victim of unconstitutional, wrongful, or coerced*
4 *repatriation” means any United States citizen or legal resident of*
5 *Mexican descent who was coerced, forced, or falsely induced to*
6 *emigrate from California during the period from 1929 to 1944,*
7 *inclusive, by any city, county, or state governmental authority, or*
8 *anyone acting under color of that authority, including, but not*
9 *limited to, any private individual or business entity that conspired*
10 *with any city, county, or state governmental authority, or anyone*
11 *acting under color of that authority, to violate the California*
12 *constitutional or property rights of that person.*

13 (2) *“Damages” means any and all damages for any harm, loss,*
14 *or detriment sustained by any victim of unconstitutional, wrongful,*
15 *or coerced repatriation by reason of the coerced, forced, or falsely*
16 *induced emigration from California by any city, county, or state*
17 *governmental authority, or anyone acting under color of that*
18 *authority, including, but not limited to, any private individual or*
19 *business entity that conspired with any city, county, or state*
20 *governmental authority, or anyone acting under color of that*
21 *authority, to violate the California constitutional or property*
22 *rights of any victim of unconstitutional, wrongful, or coerced*
23 *repatriation.*

24 (b) *Notwithstanding any other provision of law, any victim of*
25 *unconstitutional, wrongful, or coerced repatriation, or the heir or*
26 *beneficiary of a victim of unconstitutional, wrongful, or coerced*
27 *repatriation, who has a claim arising out of the victim’s coerced,*
28 *forced, or falsely induced emigration from California by any city,*
29 *county, or state governmental authority, or anyone acting under*
30 *color of that authority, including, but not limited to, any private*
31 *individual or business entity that conspired with any city, county,*
32 *or state governmental authority, or anyone acting under color of*
33 *that authority, to violate the California constitutional or property*
34 *rights of any victim of unconstitutional, wrongful, or coerced*
35 *repatriation, may bring a legal action to recover any damages in*
36 *any court of competent jurisdiction in this state, which court shall*
37 *be deemed the proper forum for that action until its completion or*
38 *resolution.*

39 (c) *No action brought under this section may be dismissed for*
40 *failure to (1) comply with the applicable statute of limitations, or*

(2) exhaust any applicable administrative remedies or governmental tort claim procedures otherwise provided by any statute, if the action is commenced in any California court of competent jurisdiction on or before December 31, 2006.

SEC. 2. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~Safety Code, to read:~~

~~18700.1. (a) In addition to any other remedy or penalty provided in this part, the Director of Housing and Community Development, his or her designee, or an employee authorized by a local enforcement agency that has assumed jurisdiction pursuant to Section 18300, may issue a citation that assesses a civil penalty on any owner, operator, or both, of a mobilehome park, homeowner, or other responsible party for the violation of a section described in subdivision (b) if the violation constitutes an imminent hazard representing an immediate risk to life, health, or safety that requires immediate correction within the meaning of Section 18400.3 and the violation has continued for at least 14 days after issuance of the notice to correct the condition from the enforcement agency.~~

~~(b) The violation of any of the following sections is subject to a citation pursuant to subdivision (a): subdivision (a) of Section 18550, Section 18552, Section 18554, Section 18602, Section 18603, Section 18630, Section 18670, Section 18690, and Section 18691.~~

~~(c) The amount of any civil penalty assessed pursuant to subdivision (a) shall be one hundred dollars (\$100) for each violation, but shall be increased to two hundred fifty dollars (\$250) for each subsequent violation of the same prohibition for which a citation for the subsequent violation is issued within one year of the citation for the previous violation. The civil penalties assessed pursuant to this section shall be payable to the enforcement agency, notwithstanding any other provision of law. Whether or not the violation or violations, if applicable, giving cause for the citation are corrected, payment of the civil penalty shall be remitted to the enforcement agency within 30 days of the issuance of the citation.~~

~~(d) Any person or entity served a citation pursuant to this section may petition the director or his or her designee or the~~

1 authorized representative of the local enforcement agency, where
2 applicable. The petition shall be a written request briefly stating
3 the grounds of the request. Any petition to be considered shall be
4 received by the department or the local enforcement agency within
5 10 days of the date of issuance of the citation.

6 (e) Upon receipt of a timely and complying petition, the
7 enforcement agency shall suspend enforcement of the citation and
8 set a time and place for an informal hearing and shall give the
9 recipient of the citation written notice thereof.

10 (1) The hearing shall commence no later than 30 days
11 following receipt of the petition or at another time scheduled by
12 the enforcement agency pursuant to a request by the petitioner or
13 the enforcement agency if the enforcement agency determines that
14 good and sufficient cause exists.

15 (2) If the petitioner can demonstrate to the enforcement agency
16 that he or she is a member of a lower income household, as defined
17 in Section 50079.5, the enforcement agency shall agree to grant the
18 petitioner an additional amount of time to correct the citation and
19 may waive the fine if the citation is corrected in accordance with
20 the agreement. Where applicable, the enforcement agency shall
21 provide the lower income petitioner with information about local
22 agency rehabilitation loan or grant programs that may be available
23 to assist them with funds to correct a code violation.

24 (3) If the petitioner fails to appear at the time and place
25 scheduled for the hearing, the enforcement agency may notify the
26 petitioner in writing that the petition is dismissed and that
27 compliance with the terms of the citation shall occur within 14
28 days after the notification is mailed.

29 (f) The enforcement agency shall notify the petitioner in
30 writing of its decision and the reasons therefor within 21 days
31 following conclusion of the informal hearing held pursuant to this
32 section. If the enforcement agency upholds the citation, in whole
33 or in part, the petitioner shall comply with the citation in
34 accordance with the decision within 14 days after the decision is
35 mailed by the enforcement agency.